

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

JIMMIE A. WHEELER,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	Case No. CIV-16-893-F
	)	
FORREST PERRY, et al.,	)	
	)	
Defendants.	)	

**ORDER**


On March 3, 2017, United States Magistrate Judge Shon T. Erwin issued a Report and Recommendation, recommending that the remainder of plaintiff's action under 42 U.S.C. § 1983 be dismissed without prejudice for plaintiff's failure to comply with the court's order of January 30, 2017. Magistrate Judge Erwin specifically found that plaintiff had failed to submit the necessary paperwork required for service of process on defendant, Forrest Perry.

Any objection to Magistrate Judge Erwin's Report and Recommendation was due on March 20, 2017. To date, plaintiff has not objected to the Report and Recommendation. While the record does not reflect that the Report and Recommendation has been returned undeliverable, it does reflect that the last two orders sent to plaintiff by the court were returned undeliverable, with a notation that plaintiff was released as of December 15, 2016. *See*, doc. nos. 18 and 20. Plaintiff has not submitted a notice of change of address to the clerk of the court. Under Rule 5.4(a) of the court's Local Civil Rules, "[p]apers sent by the court will be deemed delivered if sent to the last known address given to the court." The Report and Recommendation was mailed to plaintiff's last known address.

As the Report and Recommendation is deemed delivered to plaintiff and no objection to the Report and Recommendation has been filed within the time prescribed by Magistrate Judge Erwin, the court accepts, adopts and affirms the Report and Recommendation in its entirety.

Accordingly, the Report and Recommendation of United States Magistrate Judge Shon T. Erwin issued on March 3, 2017 (doc. no. 21) is **ACCEPTED**, **ADOPTED** and **AFFIRMED**. Plaintiff's 42 U.S.C. § 1983 equal protection claim against defendant, Forrest Perry, in both his individual capacity and his official capacity, is **DISMISSED WITHOUT PREJUDICE**. A final judgment shall issue forthwith.

IT IS SO ORDERED this 22<sup>nd</sup> day of March, 2017.

  
STEPHEN P. FRIOT  
UNITED STATES DISTRICT JUDGE